


Approved:   
 NI QIAN  
 Assistant United States Attorney

Before: HONORABLE DEBRA FREEMAN  
 United States Magistrate Judge  
 Southern District of New York

-----x	:	21 MAG 3585
UNITED STATES OF AMERICA	:	<u>COMPLAINT</u>
- v. -	:	Violations of 21 U.S.C.
FREDDY AURELIO ALVAREZ DIAZ,	:	§ 846; 18 U.S.C. §
	:	924(c)
	:	
Defendant.	:	County of Offense:
	:	Bronx
-----x	:	

STATE OF NEW YORK ) ss:  
 SOUTHERN DISTRICT OF NEW YORK )

JAMES BAYROOTY, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), and charges as follows:

COUNT ONE  
 (Conspiracy to Distribute Narcotics)

1. In or about March 2021, in the Southern District of New York and elsewhere, FREDDY AURELIO ALVAREZ DIAZ, the defendant, and others known and unknown, intentionally and knowingly did combine, conspire, confederate, and agree together and with each other to violate the narcotics laws of the United States.

2. It was a part and an object of the conspiracy that FREDDY AURELIO ALVAREZ DIAZ, the defendant, and others known and unknown, would and did distribute and possess with intent to distribute controlled substances, in violation of Title 21, United States Code, Section 841(a)(1).

3. The controlled substances that FREDDY AURELIO ALVAREZ DIAZ, the defendant, conspired to distribute and possess with intent to distribute were (i) 400 grams and more of mixtures and

substances containing a detectable amount of fentanyl, in violation of Title 21, United States Code, Section 841(b)(1)(A); and (ii) one kilogram and more of mixtures and substance containing a detectable amount of heroin, in violation of Title 21, United States Code, Section 841(b)(1)(A).

(Title 21, United States Code, Section 846.)

COUNT TWO  
(Firearms Possession)

4. On or about March 31, 2021, in the Southern District of New York and elsewhere, FREDDY AURELIO ALVAREZ DIAZ, the defendant, during and in relation to a drug trafficking crime for which he may be prosecuted in a court of the United States, namely, the drug trafficking crime charged in Count One of this Complaint, knowingly did use and carry a firearm, and in furtherance of such crime, did possess a firearm.

(Title 18, United States Code, Section 924(c)(1)(A)(i).)

The bases for my knowledge and for the foregoing charge are, in part, as follows:

5. I am a Special Agent with the FBI and I have been personally involved in the investigation of this matter. This affidavit is based upon my personal participation in the investigation, my examination of reports and records, and my conversations with other law enforcement agents and other individuals. Because this affidavit is being submitted for the limited purpose of demonstrating probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

6. Based on my participation in this investigation and my conversations with other law enforcement officers, I have learned, in substance and in part, the following:

a. On or about March 29, 2021, a particular confidential source ("CS-1"),<sup>1</sup> acting at the direction of law

---

<sup>1</sup> CS-1 is a confidential source working with the FBI. CS-1 has been providing information to law enforcement for approximately 10 years in exchange for financial and immigration benefits.

enforcement, contacted an individual ("CC-1") via WhatsApp at the phone number ending in -7821 (the "7821 Number"). During this unrecorded phone call via WhatsApp, CS-1 told CC-1, in sum and substance, that CS-1 was looking to purchase three to five kilograms of synthetic. CC-1 agreed to sell to CS-1 and told CS-1, in sum and substance, to call "Willy" at the phone number ending in -5698 (the "5698 Number"). Based on my training and experience, I understand that "synthetic" is referring to fentanyl.

b. Later on or about March 29, 2021, CS-1 called the 5698 Number via WhatsApp and, during this unrecorded phone call, said, in sum and substance, that CS-1 was calling for Willy, and that CS-1 was told to call this number to talk about picking up a sample. Willy responded that he would call CS-1 back with an address. Sometime later, the 5698 Number called CS-1 via WhatsApp, and during this unrecorded phone call, told CS-1, in sum and substance, to go to a particular building with a zip code indicating that it in the Bronx ("Building-1"). CS-1 and Willy agreed to meet at around 12:30 p.m.

c. On or about March 30, 2021, the 5698 Number sent CS-1 a message via WhatsApp, asking CS-1, in sum and substance, whether CS-1 was still ready to meet at 12:30 p.m. CS-1 responded that he was.

d. Later, on or about March 30, 2021, CS-1 called the 5698 Number via WhatsApp. During this recorded phone call, CS-1 told Willy that CS-1 was on his way.

e. At approximately 12:57 p.m. on March 30, 2021, CS-1 arrived in front of Building-1, called the 5698 Number via WhatsApp, and told Willy, in sum and substance, that CS-1 had arrived. Willy told CS-1 that he was coming down.

f. Shortly after this phone call, law enforcement officers, who were conducting surveillance from inside Building-1, observed on a surveillance camera an individual, later identified as FREDDY AURELIO ALVAREZ DIAZ, the defendant, exit

---

Information provided by CS-1 has proven reliable and has been corroborated by, among other things, events and individuals independently observed by law enforcement, and has led to multiple seizures of narcotics and arrests of narcotics traffickers. Information provided by CS-1 in this case has proven reliable and has been corroborated by, among other things, recordings and law enforcement surveillance.

an apartment ("Apartment-1") re-enter Apartment-1, and then exit Apartment-1 again. Law enforcement officers observed ALVAREZ DIAZ enter the elevator and exit from the elevator on the first floor of Building-1. Law enforcement officers then observed ALVAREZ DIAZ exit Building-1 and approach CS-1 and the vehicle that CS-1 was sitting in. ALVAREZ DIAZ was observed talking to CS-1 through the passenger side of CS-1's vehicle.

g. According to CS-1, during the recorded meeting between him and ALVAREZ DIAZ, ALVAREZ DIAZ placed an item wrapped in paper towel (the "Sample") into CS-1's palm. CS-1 then asked the ALVAREZ DIAZ, in sum and substance, whether CS-1 was supposed to call ALVAREZ DIAZ. ALVAREZ DIAZ told CS-1, in sum and substance, that CS-1 should call the other guy to discuss the price.

h. After this meeting with CS-1, ALVAREZ DIAZ was observed by law enforcement officers walking eastbound on 234th Street.

i. Law enforcement officers subsequently field-tested the substance inside the Sample and found that it was positive for fentanyl.

j. In or about the evening of March 30, 2021, CS-1 called CC-1 on the 7821 Number via WhatsApp. During this unrecorded phone call, CS-1 told CC-1, in sum and substance, that the sample was good. CS-1 and CC-1 then discussed the price and settled on \$32,000 per kilogram. CS-1 told CC-1, in sum and substance, that CS-1 wanted to purchase three kilograms the next day. Later the same night, CS-1 sent CC-1 a message via WhatsApp stating, in sum and substance, that CS-1 will make the purchase between 10 and 10:30 a.m. the next day.

k. On or about March 31, 2021, at approximately 10:21 a.m., CS-1 called Willy on the 5698 Number via WhatsApp. During this recorded phone call, CS-1 told Willy, in sum and substance, that CS-1 was ready. Willy responded, in sum and substance, that Willy did not know what CS-1 was talking about, and that Willy had not gotten word yet, and that he will make a phone call and call CS-1 back. Shortly after this phone call, CS-1 called CC-1 on the 7821 Number via WhatsApp. During this recorded phone call, CS-1 asked CC-1, in sum and substance, what is going on, that CS-1 was already on his way, and that CS-1 was ready. CC-1 responded, in sum and substance, that he just spoke with Willy, that a CS-1 should proceed, and that a deal will be made. At approximately 10:53 a.m. CS-1 received a phone call

via WhatsApp from the 5698 Number. During this recorded phone call, Willy told CS-1, in sum and substance, that it was going to be ready in 10 minutes.

l. Approximately 5 to 8 minutes after the WhatsApp message from the 5698 Number described above, law enforcement officers observed from a surveillance camera ALVAREZ DIAZ exiting Apartment-1 with a green shopping bag. Law enforcement officers observed ALVAREZ DIAZ enter the elevator. After law enforcement officers observed ALVAREZ DIAZ exit the elevator on the first floor, law enforcement officers arrested ALVAREZ DIAZ. Inside the green shopping bag, law enforcement officers found three rectangular shaped objects, weighing approximately three kilograms. The substance contained in one of these objects field-tested positive for methamphetamine. Based on my conversations with other law enforcement officers who have experience with this particular test kit, I understand that fentanyl will often field-test positive as methamphetamine.

m. Subsequent to the arrest of ALVAREZ DIAZ, pursuant to a search warrant authorized by the Honorable Debra Freeman, Magistrate Judge of the Southern District of New York, law enforcement officers searched Apartment-1. During this search, law enforcement officers found, among others, the following items:

i. Over 40 packages, including 24 brick-shaped objects of tightly packaged small envelopes containing substances and at least six zip lock bags containing white powdery substance. The gross weight of all the packages weigh approximately 28 kilograms. The substance contained in one of the small envelopes field-tested positive for heroin;

ii. a firearm and a loaded magazine found in the hidden compartment of an end table; and

iii. two kilogram presses.

WHEREFORE, I respectfully request that FREDDY AURELIO ALVAREZ DIAZ, the defendant, be imprisoned or bailed, as the case may be.

s/James Bayrooty, by the Court, with permission

JAMES BAYROOTY

Special Agent

Federal Bureau of Investigations

Sworn to me by telephone, this  
1st Day of April, 2021



THE HONORABLE DEBRA FREEMAN  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK